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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/327,085	06/04/1999	JOSEPH BACH	CA1378	5016
27460 7590 03/12/2009				
JOSEPH BACH				
17460 LAKEVIEW DRIVE				
MORGAN HILL, CA 95037				
EXAMINER				
VIG, NARESH				
ART UNIT		PAPER NUMBER		
3629				
MAIL DATE		DELIVERY MODE		
03/12/2009		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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*Ex parte:* JOSEPH BACH

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Application No. 09/327,085  
Technology Center 3600

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Mailed: March 12, 2009

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Before TOI JOHNSON *Review Paralegal*  
JOHNSON, *Review Paralegal*.

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received by the Board of Patent Appeals and Interferences on July 14, 2008. A review of the application revealed that it is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner to address the following matter(s) requiring attention prior to docketing.

APPEAL BRIEF, HEADINGS

A review of the file indicates that the Appeal Brief filed March 9, 2006 does not comply with 37 CFR § 41.37(c) because it does not contain all required heading items. Specifically, 37 CFR § 41.37 (c)(1) requires the following heading items in the following order:

- (i) *Real party in interest.*
- (ii) *Related appeals and interferences.*
- (iii) *Status of claims.*
- (iv) *Status of amendments.*
- (v) *Summary of claimed subject matter.*
- (vi) *Grounds of rejection to be reviewed on appeal.*
- (vii) *Argument.*
- (viii) *Claims appendix.*
- (ix) *Evidence appendix.*
- (x) *Related proceedings appendix.*

An in-depth review of the Appeal Brief indicates that the following sections are missing from the Appeal Brief filed March 9, 2006:

- 1) "Summary of claimed subject matter";
- 2) "Grounds of rejection to be reviewed on appeal";

- 3) "Claims Appendix";
- 4) "Evidence appendix"; and
- 5) "Related proceedings appendix".

A substitute brief that is in compliance with § 41.37(c) is required.

*See also Manual of Patent Examining Procedure* (MPEP) § 1205.02 (8<sup>th</sup> ed. Rev. 6, Sept 2007) for details.

### CONCLUSION

Accordingly, it is

ORDERED that the application is returned to the Examiner to:

- 1) hold the Appeal Brief filed March 9, 2006 defective;
- 2) notify the Appellant to submit a substitute Appeal Brief in compliance with 37 CFR § 41.37;
- 3) acknowledge and consider the substitute Appeal Brief submitted by Appellant to correct the Appeal Brief; and
- 4) for such further action as may be appropriate.

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

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